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Economic and Social Council

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Committee on Economic, Social and Cultural Rights

Concluding observations concerning the initial report of the Central African Republic*

1. The Committee considered the initial report of the Central African Republic (E/C.12/CAF/1) at its 12th and 13th meetings (see E/C.12/2018/SR.12 and 13), held on 19 and 20 March 2018, and adopted the present concluding observations at its 28th meeting, held on 29 March 2018.

A. Introduction

2. The Committee welcomes the initial report of the State party, despite its late submission. It also welcomes the fact that the State party was able to send a high-level delegation for discussions with the Committee, despite the situation of internal conflict that the State party is currently facing. The Committee appreciates its frank and constructive dialogue with the delegation.

B. Positive aspects

3. The Committee welcomes the adoption by the National Assembly, at its special session of 3–17 January 2017, of the laws governing the Economic and Social Council, the National Mediation Council, the High Council for Communication and the High Authority for Good Governance. It also welcomes the promulgation, on 20 April 2017, of the Act establishing the National Commission on Human Rights and Fundamental Freedoms, which is at present operational, although it still awaits the necessary funding to function effectively.

4. The Committee welcomes the promulgation, under article 80 of the Constitution of 30 March 2016, of a parity law on 24 November 2016, introducing a quota system of 35 per cent for 10 years starting on that date, requiring all decision-making bodies, whether elected or appointed, in both the public and the private sectors, to include a minimum of 35 per cent of each gender in their membership.[1]

5. The Committee welcomes the signing by the Central African Republic, on 23 July 2015, of the Safe Schools Declaration, which has acted as a strong incentive for the United Nations Multidimensional Integrated Stabilization Mission in the Central African Republic to safeguard access to schools by protecting them from armed groups.

6. The Committee notes with satisfaction the continued commitment of the Central African Republic in favour of refugees entering the country from neighbouring States that are affected by armed conflicts and mass violations of human rights; those refugees are

* Adopted by the Committee at its sixty-third session (12–29 March 2018).

[1] Constitutional Court, Opinion No. 001/CC/18 of 7 March 2018.

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protected against refoulement and have access to a set of social services, including free education.

C. Relevance of the Covenant in the context of armed conflict

7. The Committee is considering the initial report of the Central African Republic at a time when the country has been in a situation of conflict since 2012, and when the central Government is able to exercise effective control over not more than about a third of the national territory. In addition, at the time the report is being considered, almost one fifth of the country's population has been forcibly displaced: 688,700 persons have been internally displaced, while another 540,000 have taken refuge in neighbouring countries. Lastly, the Central African Republic now ranks last in a list of 188 countries on the scale of the Human Development Index; 2.5 million people are in need of humanitarian assistance and only 39 per cent of the necessary funding has been found for the proposed humanitarian response plan.

8. In this respect, the Committee recognizes that the armed conflict hampers effective control by the State party over parts of its territory and that it is thus not in a position to ensure the full implementation of Covenant rights throughout the country. It reminds the State party, however, that human rights obligations extend throughout the country and that it is the responsibility of the State to protect all persons within its territory without discrimination. To that effect the State party must endeavour, as far as possible, to fulfil its obligations under the Covenant by resorting to all means compatible with international law.

9. The Committee also notes that, in a situation of armed conflict, certain serious violations of the Covenant may be qualified as war crimes; these include, for example, all attacks against medical buildings and means of transport, or against personnel using the distinctive emblems of the Geneva Conventions; deliberate attacks on schools and hospitals; rape and sexual slavery; the conscription or enlistment of children under 15 years of age into armed forces or groups; or using them to participate actively in hostilities.[2] Nevertheless, the applicability of international humanitarian law does not preclude the application of international human rights law, including the Covenant, which operates independently (see CCPR/C/ISR/CO/4, para. 5).

10. The Committee considers, moreover, that human rights must be fully taken into account in the ongoing peace and reconciliation process in the State party. A recognition of economic, social and cultural rights may alleviate some of the underlying causes of the conflict, such as inequalities of treatment between different parts of the national territory and between different sectors of the population, or the seizure of resources by a few individuals. Economic, social and cultural rights have a role to play in the components of transitional justice related to reparations due to victims and guarantees of non-recurrence. Pursuant to common article 3 of the Geneva Conventions, the guarantee of economic, social and cultural rights may be included in humanitarian agreements concluded with armed groups operating in the country and in local peace agreements. Moreover, the rights enshrined in the Covenant must guide the strategy for restoring the State's authority, which must avoid aggravating disparities between regions and aim instead at ensuring territorial cohesion, in which the whole population feels involved.

Displaced persons

11. The Committee is concerned at the fact that the economic, social and cultural rights of refugees or internally displaced persons have not always been adequately guaranteed. It recalls that humanitarian aid must be distributed without discrimination, taking account in particular of the specific needs of persons with disabilities regarding access to water and sanitation, food, accommodation and health services. Due respect for their economic, social and cultural rights will facilitate the resettlement in their home communities of displaced persons or refugees who have exercised their right to voluntary return.

[2] See the Rome Statute of the International Criminal Court, art. 8. para. 2 (e) and Security Council resolution 2387 (2017) of 15 November 2017, para. 27.

12. **The Committee therefore recommends that the State party ensure:**

(a) **In the area of humanitarian aid, including within the framework of the support project for the return and reintegration of displaced persons in the Central African Republic, that displaced persons are guaranteed to enjoy at least the main aspects of their economic, social and cultural rights, in particular through basic services such as education, health services and adequate accommodation;**

(b) **That displaced persons exercising their right to return have access to adequate accommodation and land, and to adequate mechanisms of restitution, including judicial, with a view to safeguarding their durable return and resettlement within their communities;**

(c) **In consultation with humanitarian partners, that displaced persons suffering from disability and living in camps are allowed to enjoy adequate protection and humanitarian assistance on equal terms, as well as access to their basic requirements, such as food, water and sanitation, health care and education;**

(d) **That children have access to child-friendly spaces in camps, the births of children born in a situation of forced displacement inside or outside the country are registered, for example by mobile units for issuing birth certificates, and further awareness-raising campaigns are implemented on this issue for displaced populations; and**

(e) **That a coordinated strategy is implemented without delay to guarantee respect for the human rights of displaced persons.**

The Committee draws the attention of the State party to the Guiding Principles on Internal Displacement (E/CN.4/1998/53/Add.2, annex).

Sexual violence in a context of conflict

13. The Committee is concerned at the very frequent occurrences of sexual violence, including rape, perpetrated by the members of armed groups against women and girls in the context of conflict in the Central African Republic and the insufficiency of protection measures and adequate assistance for victims of sexual violence outside the areas under the control of the State party.

14. **The Committee recommends that the State party:**

(a) **Take all necessary measures to prevent sexual violence committed by all belligerents and to protect civilians, in particular women and girls;**

(b) **Prosecute the perpetrators of sexual violence during the conflict and strengthen the deployment of police and judicial services across the country and the resources available to the joint unit for rapid intervention and repression of sexual violence perpetrated against women and children, and ensure that, within the areas under the control of the State party, women and girls are able to lodge complaints without fear of reprisal or stigmatization;**

(c) **Strengthen measures to protect victims, such as supplying shelters and improving access to health care and psychological assistance.**

Recalling in this regard Security Council resolution 1325 (2000) on women, peace and security and its follow-up resolutions, the Committee requests the State party to incorporate a gender perspective into all peace initiatives and to involve women in the implementation of peace agreements.

D. Principal subjects of concern and recommendations

Corruption

15. The Committee is concerned at the generalized corruption that prevails in the State party, which deprives it of the resources it needs to implement the Covenant rights. It is also concerned at the state of impunity enjoyed by those responsible, despite the provisions

of articles 368–370 of the Criminal Code (Act No. 10.001 of 6 January 2010) that qualify corruption as a criminal offence. The Committee takes note of the creation and establishment of the High Authority in charge of good governance, but is concerned at the quantity of resources it has been allocated and the effectiveness of its action.

16. **The Committee recommends that the State party address the root causes of corruption. It also recommends that the State party:**

(a) **Combat impunity with respect to corruption and give the courts the necessary means to take action;**

(b) **Guarantee transparency and traceability in the management of revenues arising from the exploitation of natural resources and from external aid;**

(c) **Allocate the High Authority in charge of good governance the financial, technical, material and human resources it needs to fulfil its mandate effectively.**

Non-discrimination

17. While noting that article 6 of the Constitution forbids discrimination arising on certain grounds, and that articles 10 and 222 of the Labour Code (Act No. 09.004 of 29 January 2009) forbid discrimination in employment, at least on certain grounds, the Committee is concerned at the absence in the State party's internal legal system of a general law against discrimination, prohibiting it in all areas covered by the Covenant. It also notes that the wording of article 222 of the Code, which subordinates the right to equal pay to "equal conditions of work, professional qualification and output", may contravene the principle of equal pay for men and women for work of equal value (arts. 2, 3, 6 and 7).

18. **The Committee recommends that the State party adopt a general law against discrimination covering all aspects of the Covenant and revise article 222 of the Labour Code by explicitly adding the principle of equal remuneration for work of equal value. It refers the State party to its general comment No. 20 (2009) on non-discrimination in economic, social and cultural rights, and its general comment No. 23 (2016) on the right to just and favourable conditions of work.**

Persons with disabilities

19. The Committee regrets that the specific needs of persons with disabilities are not sufficiently taken into account in peace and reconciliation initiatives. It also regrets that article 6 of the State party's Constitution does not refer to disability as one of the prohibited grounds of discrimination and that Act No. 00.007 of 20 May 2000, on the status, protection and well-being of persons with disabilities, does not incorporate the notion of reasonable accommodation. The Committee is also concerned at the possibility suggested in paragraph 2 of article 269 of the Labour Code that the pay of persons with disabilities may be reduced on account of lower output; and at the absence of any effective implementation of articles 265 of the Labour Code and 38 of Act No. 00.007 of 20 May 2000, which establish quotas for the employment of persons with disabilities in the private and public sectors respectively (arts. 2, 6 and 7).

20. **The Committee recommends that the State party:**

(a) **Address the issue of the rights of persons with disabilities in its peace and reconciliation initiatives, especially in the National Plan for the recovery and consolidation of peace approved by the State party on 26 October 2016;**

(b) **Add disability as a ground for discrimination in article 6 of its Constitution and incorporate the notion of reasonable accommodation in Act No. 00.007 of 20 May 2000;**

(c) **Revise article 265 of the Labour Code in order to ensure that persons with disabilities enjoy equal pay for work of equal value;**

(d) **Ensure the effective application of regulations on employment quotas for persons with disabilities.**

Indigenous populations

21. The Committee is concerned at the persistent marginalization, poverty and extreme vulnerability of indigenous populations (Mbororo and Baka), who continue to meet with considerable obstacles to the enjoyment of their rights under the Covenant, a situation which has worsened as a result of the situation of conflict in the Central African Republic. The Committee is particularly concerned at: the obstacles to obtaining identity documents and to birth registration; the difficulties of access to health services that are well equipped and staffed with qualified personnel, in particular in the Prefecture of Lobaye; difficulties in obtaining land; the fact that those populations are employed in precarious and underpaid jobs, particularly in agriculture, and are sometimes reduced to slavery by other local ethnic groups; and their weak representation and participation in political and public affairs (arts. 2, 6, 7, 11 and 12).

22. **The Committee recommends that the State party combat discrimination against and the marginalization of indigenous populations and strengthen their protection in the framework of the conflict. It also recommends that the State party adopt a national strategy to promote and protect the rights of indigenous populations, with the participation of the communities concerned, that favours the implementation of the Declaration on the Rights of Indigenous Peoples and ensures:**

(a) **The speedier issue of identity documents and birth registrations;**

(b) **Guaranteed access to health care; and**

(c) **The eradication of the practice of slavery among indigenous populations.**

Gender equality

23. The Committee is concerned at the fact that article 252 of the Labour Code, insofar as it refers to employment that is "recognized as being above women's capacity", might result in unequal treatment between men and women in employment and in segregation at work (arts. 3, 6 and 7).

24. **The Committee recommends that the State party amend article 252 of the Labour Code to combat segregation at work and gender stereotypes.**

25. The Committee takes note of the fact that the Family Code does not discriminate against women in terms of access to landownership and inheritance. It is concerned, however, at the fact that customary norms and social practices make it difficult for women to inherit land, including in the event of separation from or the death of their spouses. The consequences are all the more significant in the current situation of conflict, in which many women are left in charge of their households (arts. 2, 3, 10 and 11).

26. **The Committee recommends that the State party put an end to all discrimination against women in terms of access to landownership, particularly with regard to inheritance.**

Labour inspection services

27. The Committee is concerned at the shortage of resources available to labour inspection services to enable them to operate effectively (art. 7).

28. **The Committee recommends that the State party consider equipping the labour inspection services with the financial, human and material resources they need to operate satisfactorily.**

Worst forms of child labour

29. While regretting that the minimum age for employment is 14, the Committee notes that articles 259–263 of the Labour Code and article 190 of the Mining Code are aimed at preventing and combating the worst forms of labour, especially the economic exploitation of children. Nonetheless, it is concerned at the forced recruitment of children in armed groups in the current situation of conflict, and at the fact that children are the victims of exploitation and forced labour in agriculture, mining and domestic work (arts. 7 and 10).

30. **The Committee recommends that the State party:**

(a) **Raise the minimum age for employment;**

(b) **Strengthen measures to prevent and combat the recruitment of children in armed groups, to remove them from those groups and to ensure their reintegration, providing appropriate psychological support;**

(c) **Ensure the protection of children against trafficking, forced labour and other worst forms of labour, in particular in agriculture, mining and domestic work, and that in future it step up inspections of those activities.**

Trade union rights

31. The Committee is concerned that the provisions of articles 17, 24 and 26 of the Labour Code discriminate against foreigners and minors in the enjoyment of their trade union rights. It is also concerned at the fact that article 11 of Order No. 81/028 gives an excessively vague definition of the powers of requisition in the event of strikes (arts. 2, 7, 8 and 10).

32. **The Committee recommends that the State party amend articles 17, 24 and 26 of its Labour Code to bring them into line with article 8 of the Covenant. It further recommends that the State party amend Order No. 81/028 to restrict the powers of requisition in the event of strikes exclusively to occasions where essential services need to be maintained for the population.**

Family protection

33. The Committee is concerned at: (a) the fact that marital rape is still yet to be criminalized; (b) the continued practice of female genital mutilation, in particular in rural areas; (c) the high proportion of early marriages despite the 18-year legal age limit on marriage; and (d) cruel and inhumane treatment, which can result in death, sometimes inflicted on women and widows accused of witchcraft (arts. 2, 3, 10 and 12).

34. **The Committee recommends that the State party:**

(a) **Make marital rape a criminal offence;**

(b) **Step up efforts to end female genital mutilation;**

(c) **Ensure the strict enforcement of rules governing the minimum age of marriage and conduct awareness campaigns against early marriage;**

(d) **Take measures to eradicate mob justice that leads to women accused of witchcraft being subjected to ill-treatment.**

Corporal punishment

35. The Committee is concerned at the fact that article 580 of the Family Code appears to authorize corporal punishment within the family and within child protection facilities (art. 10).

36. **The Committee recommends that the State party amend its legislation in order to explicitly prohibit corporal punishment in all circumstances and to ensure the effective enforcement of this ban.**

Right to health

37. The Committee is particularly concerned at: (a) the insufficiency and further lowering of health expenditure (which accounts for only 9 per cent of the State party's budget, far below the 15 per cent target recommended in the Abuja Declaration); (b) the rate of prevalence of HIV/AIDS, which remains high (4.9 per cent in 2010 among adults aged between 15 and 49); (c) the high rates of infant mortality (116 per thousand in 2010) and maternal mortality (890 per 100,000 in 2010); and (d) the difficulties of access for women and girls to reproductive and sexual health care, and the obstacles to accessing health-care centres outside areas under Government control. The Committee is further

concerned by the fact that sanitary installations and medical, including humanitarian, personnel have been exposed to looting and attacks by armed groups, which impede public access to health-care services and lead to the closure of health-care centres (arts. 10 and 12).

38. **The Committee recommends that the State party take all necessary measures to rehabilitate the health service, in particular by implementing the 2017–2027 plan for the construction, rehabilitation and equipment of sanitary facilities. It further recommends that the State party, in the light of its general comment No. 14 (2000) on the right to the highest attainable standard of health:**

(a) **Increase health expenditure in order to allow greater access to health services and health care;**

(b) **Step up its efforts to facilitate access to antiretroviral medicines for more people;**

(c) **Train and recruit a sufficient number of qualified medical personnel by implementing its 2017–2021 strategic plan for the development of human resources for health;**

(d) **Take measures to improve the reproductive and sexual health of women and girls, by facilitating access to reproductive and sexual health information and services, including free access to contraceptives, taking into account general comment No. 22 (2016) on the right to sexual and reproductive health;**

(e) **Take every possible measure to protect sanitary installations and medical, including humanitarian, personnel against looting and attacks, and consider the reopening wherever possible of health-care centres and hospitals.**

Right to education

39. While noting that the conflict has seriously affected the education system in the State party, the Committee is concerned at the following: (a) the very high illiteracy rate in the State party, particularly among women and girls, indigenous populations and in rural areas, as well as the requirement to pay for certain aspects of education, which may have the effect of lowering the rate of school attendance; (b) the State party's inability to ensure inclusive education despite the provisions of article 28 of Act No. 00.007 of 20 May 2000, and the shortage of qualified teachers to supervise pupils with disabilities; (c) the low rate of enrolment in schools and the high dropout rate, particularly among girls; (d) the obstacles faced by demobilized child soldiers in accessing education or professional or vocational training; (e) the insufficient number of qualified teachers and the still considerable proportion of parent-teachers; and (f) the looting, attacks and occupation of several schools and the murders of teachers by armed groups, which have led to the closure of schools for security reasons (art. 13).

40. **The Committee recommends that the State party give priority to education and the rehabilitation of the educational system in its peace and reconciliation initiatives. It recommends in particular that the State party take the necessary measures to:**

(a) **Combat illiteracy and increase the rate of literacy among the population, and ensure universal, free educational coverage, especially among the most marginalized and deprived populations;**

(b) **Guarantee inclusive education for pupils with disabilities, and train and recruit a sufficient number of qualified teachers to work with these pupils;**

(c) **Guarantee universal access to primary education and increase the enrolment of girls and children from indigenous or rural communities, and firmly address the causes of dropout;**

(d) **Step up the training and recruitment of qualified teachers and ensure the regular payment of their salaries;**

(e) **Ensure that demobilized child soldiers are able to have access to education and to acquire professional qualifications, thus facilitating their reintegration;**

(f) Protect schools against looting and occupation by armed groups, rehabilitate them, and investigate, prosecute and, where necessary, convict those responsible.

Cultural rights

41. The Committee is concerned at information it has received regarding barriers to the exercise of freedom of expression for journalists, radio broadcasters and bloggers, which obstructs their participation in the cultural life of the country and the dissemination of a culture of peace.

42. **The Committee recommends that the State party take all the necessary measures to ensure that journalists, radio broadcasters and bloggers can contribute to a culture of peace and religious and cultural tolerance, under conditions that guarantee their safety.**

E. Other recommendations

43. **The Committee encourages the State party to ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.**

44. **The Committee recommends that the State party take fully into account its obligations under the Covenant and ensure the full enjoyment of the rights enshrined therein in the implementation of the 2030 Agenda for Sustainable Development at the national level, with international assistance and cooperation when needed. Achievement of the Sustainable Development Goals would be significantly facilitated by the State party establishing independent mechanisms to monitor progress and treating beneficiaries of public programmes as rights holders who can claim entitlements. Implementing the Goals on the basis of the principles of participation, accountability and non-discrimination would ensure that no one is left behind.**

45. **The Committee recommends that the State party step up the collection of data, as well as the production and use of statistics, with a view to producing indicators on human rights, particularly economic, social and cultural rights. In that context, the Committee refers the State party to, inter alia, the conceptual and methodological framework on human rights indicators developed by the Office of the United Nations High Commissioner for Human Rights (see HRI/MC/2008/3). The Committee requests the State party to ensure that its next periodic report contains comparative annual statistical data concerning the exercise of each of the rights enshrined in the Covenant, broken down by age, sex, ethnic origin, urban and rural population and other relevant criteria.**

46. **The Committee welcomes the preparation of a draft national policy document on human rights and fundamental freedoms in the Central African Republic and hopes that the above recommendations will influence the final version of this document. The Committee requests that the State party disseminate the present concluding observations widely at all levels of society, in particular among parliamentarians, public officials and judicial authorities, and that it inform the Committee in its next periodic report about the steps taken to implement them. It also encourages the State party to seek the participation of non-governmental organizations and other members of civil society in any discussions held at the national level, prior to submitting its next periodic report.**

47. **Pursuant to the Committee's procedure for following up on concluding observations, the State party is requested, within 18 months of the adoption of the present concluding observations, to report on the action taken to give effect to the recommendations made by the Committee in paragraph 12 above.**

48. **The Committee requests the State party to submit its second periodic report by 31 March 2023 at the latest. The Committee understands that the initial report was written in particularly difficult conditions, which could explain why it only covers some of the rights enshrined in the Covenant and does not provide the expected data**

on a number of issues, particularly regarding the effective implementation of the aforementioned legislation and the success or delays experienced. The Committee requests the State party's second periodic report to be prepared in accordance with the reporting guidelines adopted by the Committee in 2008 (see E/C.12/2008/2). It further invites the State party to update its common core document in accordance with the harmonized guidelines on reporting under the international human rights treaties (see HRI/GEN/2/Rev.6, chap. I).